

SPECIAL MEETING
BEFORE THE
CALIFORNIA ENERGY RESOURCES CONSERVATION
AND DEVELOPMENT COMMISSION

HEARING ROOM A
CALIFORNIA ENERGY COMMISSION
1516 NINTH STREET
SACRAMENTO, CALIFORNIA

WEDNESDAY, APRIL 25, 2001

10:00 a.m.

Reported By:
Valorie Phillips
Contract No. 150-99-002

PETERS SHORTHAND REPORTING CORPORATION (916) 362-2345

COMMISSIONERS PRESENT

William J. Keese, Chairman

Michal C. Moore

Robert Pernell

Arthur Rosenfeld

STAFF PRESENT

Steve Larson, Executive Director

Bill Chamberlain, Chief Counsel

Kent Smith, Chief Deputy Director

Kevin Kennedy

Tom Glaviano

Beverly Duffy

PUBLIC ADVISOR

Marija Krapceovich, Associate Public Advisor

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1 P R O C E E D I N G S

2 CHAIRMAN KEESE: I will call this
3 meeting of the Energy Commission to order.

4 Commissioner Rosenfeld, would you lead
5 us in the Pledge, please.

6 (Thereupon the Pledge of Allegiance
7 was recited in unison.)

8 CHAIRMAN KEESE: We're going to take up
9 Item 3 first. Peak Demand Reduction Program.
10 Possible approval of Peak Demand Reduction Program
11 grants as funding becomes available through AB
12 970, SB 5X and 29X.

13 COMMISSIONER PERNELL: Mr. Chairman.

14 Mr. Chairman, these -- the items we're
15 proposing to approve is the last two grants for
16 demand responsive systems and commercial buildings
17 under AB 970. We have Beverly Duffy, which will
18 answer any questions and briefly describe the
19 item.

20 CHAIRMAN KEESE: Thank you. Good
21 morning.

22 MS. DUFFY: Good morning. The --
23 essentially, there are two applications, one for
24 Sun Microsystems, which is to install demand
25 responsive eight track and lighting equipment.

1 The other one is for Hewlett Packard and Company,
2 and they are also installing the same equipment.
3 And the megawatt savings are -- let's see, on
4 Hewlett Packard, 1.1 megawatts, and on Sun, 1.2
5 megawatts.

6 CHAIRMAN KEESE: And how much is -- what
7 are we talking about, how much money?

8 MS. DUFFY: For Sun Microsystems, it's
9 306,500. For Hewlett Packard, it's 422,800.

10 CHAIRMAN KEESE: Thank you.

11 Do we have any questions on the
12 Commission?

13 COMMISSIONER PERNELL: Mr. Chairman, I
14 would move the Item Number 3, Staff
15 recommendations, Peak Demand Reduction Program.

16 COMMISSIONER ROSENFELD: Second.

17 CHAIRMAN KEESE: Motion, Commissioner
18 Pernell. Second, Commissioner Rosenfeld.

19 COMMISSIONER MOORE: Can I, before we
20 vote on the motion, Mr. Chairman, can I just ask
21 one question on the --

22 CHAIRMAN KEESE: Certainly.

23 COMMISSIONER MOORE: -- 5X, 29X money.
24 What's the actual source of that money? I mean,
25 is that -- is that the future bond issue that

1 hasn't been issued yet?

2 MS. DUFFY: No. As I understand it, the
3 oversubscribed funds come out of the HVAC funding
4 that's already allowed in 5X. It's General Fund.

5 COMMISSIONER MOORE: So 5X is -- is
6 General Fund money, 29X is bond money. Are they
7 fungible? They -- they are fungible. All right.

8 COMMISSIONER ROSENFELD: But this is 5X
9 money, anyway.

10 COMMISSIONER MOORE: But this -- but in
11 any case, this is 5X money that we're talking
12 about, and that's -- that's General Fund. Is
13 there any General Fund left, by the way? I
14 realize that's intemperate and rude of me to say
15 that, but -- billions. Well, that's -- that's
16 comforting.

17 CHAIRMAN KEESE: Okay. We have a motion
18 and a second.

19 All in favor.

20 (Ayes.)

21 CHAIRMAN KEESE: Opposed.

22 Approved, four to nothing.

23 Item 4 is off the agenda.

24 COMMISSIONER MOORE: When will that come
25 back?

1 CHAIRMAN KEESE: That will be back on
2 May 2nd.

3 COMMISSIONER PERNELL: Yes, one week.

4 CHAIRMAN KEESE: One week.

5 COMMISSIONER MOORE: And -- and the
6 reason for -- for pulling it was --

7 COMMISSIONER PERNELL: Well, the reason
8 is we don't have the -- we don't have all of the
9 contract for the munis. And that's -- this is
10 where these funds are going. We expect to have
11 that by the end of the week, or early next week.
12 We had a meeting on it yesterday, and it's just
13 not ready. But we expect to get it out next week.

14 COMMISSIONER MOORE: Okay. Thank you.

15 Mr. Chairman, I know that you'll move to
16 Items 1 and 2 next. Let me let you introduce
17 them, and then I have some comments.

18 CHAIRMAN KEESE: We'll next take up Item
19 1, Alliance Drews Energy Facility. Consideration
20 and possible adoption of a Commissioner's Proposed
21 Decision on the Alliance Drews Energy Facility, a
22 40 megawatt power plant, applied for under the
23 Energy Commission's Emergency Siting Process,
24 Governor's Executive Orders, by Alliance Colton
25 LLC.

1 COMMISSIONER MOORE: Mr. Chairman, by
2 way of introduction, I chaired the Committee, was
3 the Committee, I guess, on this -- on this matter
4 for both Alliance Drews and Alliance Century.

5 We conducted the hearings on the same
6 day, and the reason I asked for this to be
7 deferred as long as possible in this hearing is
8 that there are quite literally a number of changes
9 that are being put in to the Proposed Decision,
10 and I expected them to be downstairs here by now.

11 But let me just say that we, I believe,
12 are evolving along with the program, in terms of
13 writing this, and trying to stay within the limits
14 of the Governor's 21-day constraint, and comply
15 with that, but at the same time, trying to manage
16 some of the other agency input. And trying to
17 make sure that the language is consistent not only
18 between the applications, but also in terms of the
19 law, is not easy.

20 And I'm going to ask you to simply bear
21 with us as we go through this today. You have a
22 Proposed Decision from me on both cases in front
23 of you, and what I'm going to do is try and use
24 some riposte between the Staff and the Air
25 District and this dais in order to try and create

1 some additional language to put into the record,
2 and then ask the Commission to authorize me to
3 make those changes, sign the decision, and get it
4 out today. But you won't have final text in front
5 of you until after the -- the board meeting is
6 closed.

7 So with that, let me ask Mr. Kennedy if
8 he would introduce -- can we go to Century first?
9 That's Item 2. Item 2 is Alliance Century -- both
10 cases are very similar. They're not identical,
11 but they are similar, and they are within the same
12 municipal area. So, if I could ask Mr. Kennedy --

13 CHAIRMAN KEESE: Commissioner Moore, are
14 we -- are we taking up both at the same time, or
15 --

16 COMMISSIONER MOORE: Well, I'm going to
17 ask you to --

18 CHAIRMAN KEESE: I've announced one.

19 COMMISSIONER MOORE: I'm sorry. I
20 should've asked you to announce Item 2. Why don't
21 we take them up at the same time, both 1 and 2,
22 and Mr. Kennedy can talk to both.

23 CHAIRMAN KEESE: Okay. Then I will --
24 we will also take up Item 2, Alliance Century
25 Energy Facility. Consideration and possible

1 adoption of a Commissioner's Proposed Decision on
2 the Alliance Century Energy Facility, a 40
3 megawatt power plant, applied for under the Energy
4 Commission's Emergency Siting Process, Governor's
5 Executive Orders, for construction in the City of
6 Colton.

7 We'll take up Items 1 and 2 together.

8 COMMISSIONER MOORE: Thank you.

9 Mr. Kennedy.

10 MR. KENNEDY: My name is Kevin Kennedy,
11 and I was the Staff Project Manager for both the
12 Alliance Drews and Alliance Century projects in
13 the City of Colton.

14 As Commissioner Moore noted, these
15 projects were both considered under the Governor's
16 Emergency Orders as Emergency Projects. And Staff
17 completed Staff Assessments for both projects at
18 the end of last week.

19 Based on the information in the Staff
20 Assessments, Commissioner Moore published a
21 Proposed Decision on Monday, which Staff had some
22 additional comments on at the end of the day
23 yesterday, which I believe were distributed to all
24 of the Commissioners at -- at the close of the day
25 yesterday.

1 These projects are both approximately 40
2 megawatts in size. Both are planned for
3 substations within -- that are owned by the City
4 of Colton. And both projects would initially be
5 operating under an Order of Abatement from the
6 South Coast Air Quality Management District. The
7 initial operation would not be meeting the 5 ppm
8 for NOx BACT level, but would be meeting an
9 interim level of 25 parts per million for NOx.

10 And the South Coast Air District
11 yesterday approved an Order of Abatement allowing
12 that initial operation, and requiring the
13 Applicant to come in compliance with the permit,
14 which does require BACT. I'm not sure the exact
15 timing of that, but we do have a representative
16 from South Coast, but I believe it's by the end of
17 the year they will be required to be at the 5 ppm
18 level for NOx, and at the other levels for BACT.

19 The comments that Staff had submitted on
20 the Proposed Decision included revisions to some
21 of the language in the Proposed Decision to
22 reflect that initial operation under the Order of
23 Abatement.

24 A second concern in the Staff's comments
25 included provisions dealing with the need for

1 permanent offsets.

2 This project is initially proposing to
3 use some of the temporary offsets from the state
4 bank that have been made available under the
5 emergency provisions. And this project will --
6 actually is anticipating to operate under South
7 Coast's RECLAIM program, which is a program in
8 which the offsets need to be identified and
9 secured on a regular basis, as opposed to
10 initially securing permanent offsets that would be
11 good for the life of the project.

12 So Staff's comments also reflect the
13 need to make sure that the language is consistent
14 with the potential use of the RECLAIM credits.

15 Other Staff comments on the Proposed
16 Decision have to do with some minor points of
17 clarification in terms of possible small changes
18 in the stack height, and other -- other small
19 issues that just required a little bit of
20 clarification, in terms of the Proposed Decision.

21 Overall, Staff, in the Staff Assessment,
22 has recommended approval of both of these projects
23 following the Conditions of Certification included
24 in the Staff Assessment, and Staff further
25 supports the approval of the project under the

1 Proposed Decision, as it may be amended to reflect
2 Staff comments on -- on these two projects.

3 COMMISSIONER MOORE: Mr. Chairman, just
4 to add to what Mr. Kennedy has just said. We
5 received comments from Staff, we received comments
6 from our Staff attorney and the Chief Counsel's
7 office, and we also received comments from South
8 Coast that clarified the original intent and
9 language of the decision, the Proposed Decision.

10 I want to amplify a couple of things
11 that are in there, and which you all may want to
12 consider in the future cases that you're
13 conducting. And that first point concerns RECLAIM
14 credits.

15 The issue of whether or not there is a
16 sufficient bank of credits, especially the newer
17 kind that have to be renewed annually, is going to
18 raise its head again and again in front of this
19 Commission, and my suggestion is that we take this
20 question on in concert with South Coast
21 especially, because they're the biggest district,
22 and try and understand it so that we've got a -- a
23 more comprehensive format for dealing with the
24 question of how to establish what credits are
25 real, when they extinguish themselves, and when

1 new credits either can be purchased or created by
2 the local district and come online.

3 The second point has to do with the
4 natural gas supply. I informed all of you that I
5 was going to use this forum to begin collecting
6 data in lieu of an OIR, or an OII, on gas
7 supplies, and try and create a databank, as it
8 were, to talk about the source and reliability of
9 the gas supply, especially in the southern
10 California area.

11 I failed to do that in this case. I
12 just didn't get enough information, given the time
13 that we had to process the case. And so I will be
14 suggesting a format for asking questions about gas
15 supply that I will submit to each one of you, and
16 ask you if you wouldn't mind including it in your
17 cases as they're processed. In a -- you can make
18 the case that these are not exactly germane to
19 these cases, but instead, provide a supplemental
20 platform of information. But frankly, we are
21 going to need this information the longer we go,
22 and the further we push the question of how many
23 gas-fired plants we can have in California.

24 So, although I failed to accomplish it
25 in this case, my intent is to expand that line of

1 questioning in the next set of cases.

2 With your indulgence, Mr. Chairman, I'd
3 like to ask the representative from South Coast a
4 couple of questions for the record, just to
5 clarify the BACT standard on NOx, if I can. And
6 maybe he could just step to the -- to the podium
7 for a second.

8 In the decision, we have indicated, and
9 I realize that you -- none of you have the revised
10 decision because it literally is -- is being typed
11 as we speak, to accommodate the points that Mr.
12 Kennedy was just making.

13 But maybe you can identify yourself for
14 the record.

15 MR. NAZEMI: I am Moshen Nazemi. The
16 last name is N-a-z-e-m-i. I'm Assistant Deputy
17 Executive Officer for South Coast Air Quality
18 Management District.

19 COMMISSIONER MOORE: Mr. Nazemi, we
20 indicated in my decision that this project would
21 come -- both projects would come on in the
22 neighborhood of 25 ppm NOx, at the start, and that
23 they would ramp down to 5 parts per million over
24 time.

25 Can you clarify that in context with the

1 permit that they'll be getting, and the standards
2 in South Coast? Because I know every one of the
3 Commissioners has been working with the idea that
4 we would be permitting plants that were operating
5 at 5 ppm, and so I -- I need some help clarifying
6 why we're recommending certification, with your
7 blessing, at 25, and then ramping down.

8 MR. NAZEMI: Okay. Maybe I can take a
9 step back and explain what South Coast has done in
10 this case.

11 Alliance Power has proposed the two
12 projects that based on the time factor, would
13 initially be operating at levels above Best
14 Available Control Technology levels, until the
15 time where the controls are being installed and
16 operating at BACT levels.

17 Best Available Control Technology, or
18 BACT, for simple cycle gas turbines in our
19 district, is set at 5 parts per million for NOx,
20 and 6 parts per million for carbon monoxide, or
21 CO.

22 In this case, we, as the permitting
23 agency in this case, we have delegated authority
24 from the USEPA to issue the Title 5 permits for
25 both these projects, and since they are both going

1 to be Title 5 facilities we have the role of
2 issuing those permits for beginning of the
3 construction.

4 And under our permits, we actually
5 cannot give a waiver from BACT requirements under
6 the Federal Clean Air Act, and under our own
7 rules. As a result, the permits that have been
8 granted, or will be granted -- actually we're in
9 the public notice and comment period as we speak,
10 and it should end by the end of April -- will
11 actually require compliance with 5 parts per
12 million NOx and 6 parts per million CO.

13 However, in order for the Alliance to be
14 able to begin construction and actually begin
15 operation, what we agreed to do is to jointly
16 apply a petition to the hearing board, which is --
17 actually, Kevin mentioned South Coast has granted,
18 and it's actually a different entity, although
19 they have their offices in our office, in our
20 building. It's a quasi-judicial entity.

21 And what we had planned to do was to
22 obtain a stipulated Order of Abatement, which
23 would be granted by this hearing board to allow
24 the facility to operate while -- with their
25 turbines while they're air pollution control

1 equipment is being acquired and installed on the
2 operation.

3 The petition was heard yesterday at the
4 hearing board, and the hearing board members voted
5 unanimously to approve the stipulated Order of
6 Abatement. And therefore, upon closure of the
7 comment period, which is scheduled for the end of
8 this month, South Coast will be in a position to
9 grant the -- if there are no adverse comments that
10 we need to address, we will be able to grant the
11 permits to construct for this project, and the
12 project then would be able to operate.

13 And I guess, I'm sorry, I may not have
14 answered your question exactly. The reason we are
15 taking this approach is that in order to bring
16 these peaking plants online for this summer, it's
17 practical to bring these units on and start them
18 running, but it's not practical in term of the
19 timelines to have all the controls installed in a
20 timely fashion to -- to start operation for this
21 summer.

22 So as part of the Executive Orders that
23 the Governor has issued, and the work that we have
24 been doing with your agency, the Air Resources
25 Board, the ISO and other districts, and USEPA, we

1 have agreed to take this approach to allow these
2 units to still come online to help the energy
3 crisis, but at the same time make sure that the
4 controls are installed at the earliest feasible
5 time.

6 CHAIRMAN KEESE: May I -- the goal is to
7 be online by August 1st.

8 MR. NAZEMI: That's correct.

9 CHAIRMAN KEESE: And when is the target
10 to have the controls, the -- it'll be necessary to
11 shut down the units while you put the controls on?

12 MR. NAZEMI: It would be necessary to
13 shut down each unit in order to install the
14 controls.

15 CHAIRMAN KEESE: And we wouldn't want to
16 do that for some period of time. So what -- what
17 is the target for control?

18 MR. NAZEMI: The target is that all
19 eight units at two facilities must have their air
20 pollution control systems in place to meet BACT
21 requirements by December 15th of 2001.

22 CHAIRMAN KEESE: Thank you.

23 MR. NAZEMI: No later than that date.

24 COMMISSIONER MOORE: Mr. Nazemi, before
25 you leave the podium, can I ask you to comment on

1 the availability of the RECLAIM credits and their
2 ability to be renewed annually. How confident is
3 South Coast that those credits are out there and
4 will continue to be available?

5 MR. NAZEMI: RECLAIM program is
6 different, compared to all the other sitings that
7 you will probably see for -- for the rest of the
8 projects in other parts of the -- of California,
9 in that RECLAIM credits, that we refer to as RTCs,
10 RECLAIM Trading Credits, are not issued for the
11 life of the project. They're issued annually.
12 And these credits last -- there are two cycles.
13 They're either a calendar year cycle, or a fiscal
14 year cycle. But they're issued for each year.

15 There are streams of credits available
16 through the year 2015, or beyond, for the -- for
17 projects that operate beyond that date. The
18 requirements, however, in our rules, are that any
19 new project, and I guess I'm -- I'm sure you guys
20 all have familiarity with RECLAIM program, but
21 RECLAIM program started in '94, and it applied to
22 some 380 existing facilities. But there are also
23 provisions in the program that any new facility
24 that has emissions of greater than four tons both
25 of NOx or SOx, will be in this program.

1 So the provisions for new facilities is
2 that before they can start the operation, they
3 have to have at least one year, first year of
4 operating credits in hand in order to start up.
5 After the first year, the requirements are that
6 they have secured adequate offsets to cover
7 emissions for each compliance period. And we have
8 quarterly compliance and annual compliance. So
9 beyond the first year, the requirements are that
10 they obtain credits either at the close of the
11 quarter to cover their quarter's emissions, or in
12 addition to -- at the end of the year.

13 COMMISSIONER MOORE: And you're
14 confident that there are enough credits out there
15 that can be acquired that these can keep running.

16 MR. NAZEMI: There are adequate credits
17 out there in the market that you can purchase for
18 future years of operation. There is, however,
19 some concern with credits for year 2001 that power
20 plants had used up quite a bit of those, and
21 that's why our agency, actually on May 11th, is
22 voting on amendments to RECLAIM to pull those
23 power plants out of the RECLAIM program
24 temporarily, to allow the remaining facilities,
25 such as the new power plants, to be able to

1 participate in the free market.

2 COMMISSIONER MOORE: Mr. Chairman, the
3 reason that this is important to get on the record
4 is that for all the cases that are still coming
5 up, the -- especially those in southern
6 California, the change in the South Coast policy
7 may affect those decisions, and I want to make
8 sure that every member is aware of that change
9 that's coming up.

10 So, thank you.

11 MR. NAZEMI: Commissioner Moore, one
12 last thing. At this point, the Alliance Power had
13 indicated to us that they are intending to use the
14 ARB established bank of ERCs for the initial
15 operation, and upon the use and expiration of
16 those leased credits, then they will switch over
17 to RECLAIM and use RTCs.

18 COMMISSIONER MOORE: Okay. Thank you
19 very much.

20 I don't know whether other members have
21 questions. Thank you.

22 Mr. Chairman, let me just indicate that
23 that stipulated Order of Abatement is included as
24 a condition in the Proposed Decision, and with
25 your permission, I'd like to make a motion, a

1 separate motion for each case, and to get it on
2 the floor for debate. And I'd like to --

3 CHAIRMAN KEESE: Okay. And --

4 COMMISSIONER MOORE: And I --

5 CHAIRMAN KEESE: -- to make the motion,
6 and then deal with the amendments?

7 COMMISSIONER MOORE: Well, I'm going to
8 -- I'm going to include the -- this is a little
9 awkward, and I'm going to lean on the Chief
10 Counsel to keep me from -- from stepping in a
11 legal quagmire here.

12 But I would move the Proposed Decision
13 on Alliance Drews pursuant to Executive Orders D-
14 26-01 and D-28-01, with amendments that are
15 included in the Staff comments, and included in
16 the comments from the Chief Counsel's office. And
17 those are proposed to be added by the end of
18 today, calendar April 25. And I'm going to ask
19 the members, if -- if this motion gets a second, I
20 will ask the members to allow me to make those
21 changes, and I'll make sure that every office has
22 a copy before the close of business today.

23 CHAIRMAN KEESE: Motion by Commissioner
24 Moore.

25 COMMISSIONER ROSENFELD: Second.

1 CHAIRMAN KEESE: Second by Commissioner
2 Rosenfeld.

3 COMMISSIONER MOORE: I don't know
4 whether anyone's here to speak on the items at
5 all.

6 CHAIRMAN KEESE: Mr. Chamberlain, are we
7 --

8 CHIEF COUNSEL CHAMBERLAIN: Well --

9 CHAIRMAN KEESE: -- is it clear enough
10 that we can take a vote on this yet, or do we --

11 COMMISSIONER MOORE: Would you like me
12 to read the changes into the record?

13 CHIEF COUNSEL CHAMBERLAIN: How -- how
14 many are there?

15 COMMISSIONER MOORE: About 40.

16 (Laughter.)

17 CHIEF COUNSEL CHAMBERLAIN: Are they
18 available, is the only question. I mean, you
19 don't have to read them into the record, but --

20 COMMISSIONER MOORE: They are all
21 available, and, in fact, the -- the revised
22 decision, I have a single copy of the Revised
23 Proposed Decision for Alliance Century, and if we
24 are, in fact, going to go to Executive Session,
25 the amended copy of Alliance Drews will be

1 available by the end of Executive Session.

2 CHIEF COUNSEL CHAMBERLAIN: Well, maybe
3 that would be the right thing to do, is to
4 postpone the vote until you have the actual
5 document in front of you. I understand you also
6 have a natural gas briefing, or something, and so
7 perhaps -- perhaps you should come back at 11:30,
8 or whenever the --

9 CHAIRMAN KEESE: Commissioner Moore --

10 COMMISSIONER MOORE: I accept. I
11 withdraw the motion.

12 CHAIRMAN KEESE: Commissioner Moore, let
13 me just ask, do we have -- do you have substantive
14 amendments other than the one we've dealt with
15 here?

16 COMMISSIONER MOORE: Other than -- other
17 than trying to make sure that the stipulated Order
18 of Abatement is included in the Proposed Decision,
19 to make sure that it's tied very closely with the
20 South Coast District's rules, there are no
21 substantive amendments to the Proposed Decision
22 that you saw from me two days ago.

23 CHAIRMAN KEESE: Okay. Then at this
24 time, are there -- is there anybody who would like
25 to comment on this issue, either the Applicant or

1 a member of the public?

2 COMMISSIONER PERNELL: I just have a
3 question, Mr. Chairman.

4 CHAIRMAN KEESE: Commissioner Pernell.

5 COMMISSIONER PERNELL: And that is, I
6 know that this -- given the nature of -- of
7 peakers, that it's a expedited process, my
8 question is whether or not all of the participants
9 are aware of what the amendments are, and et
10 cetera, so that it -- no one will be, especially,
11 I guess, on the Applicant, would be in a position
12 not to go forward. At least they would know what
13 those amendments are.

14 COMMISSIONER MOORE: Well, that's a good
15 question. I don't believe that the Applicants
16 know that we were making these changes
17 specifically, although they certainly heard me in
18 the public meeting say that I intended to make the
19 decision comply with all the other agencies that
20 were involved and their rule set. So the specific
21 language, but not the nature of -- of my changes
22 are -- are known to them. But perhaps one of -- a
23 representative of the Applicant might want to
24 address this.

25 MR. WEISS: Hi, good morning. My name

1 is Malcolm Weiss. I'm here on behalf of Alliance.

2 We are comfortable that the concepts
3 that you have been discussing are appropriate.
4 Obviously, we have not seen the exact language,
5 but we're -- we're very comfortable with what
6 we've seen in the Staff report, and we're
7 comfortable with the discussion that we've --
8 we've heard this morning.

9 And assuming that those comments are --
10 are accurately portrayed into the order, I think
11 we're okay.

12 COMMISSIONER MOORE: Mr. Chairman,
13 perhaps what I can do, then, is to make sure that
14 --

15 CHAIRMAN KEESE: Let me -- hold a
16 second.

17 Mr. Larson, how long are we going to
18 take on natural gas?

19 EXECUTIVE DIRECTOR LARSON: As long as
20 you want. It doesn't have to be --

21 CHAIRMAN KEESE: Forty-five minutes or
22 an hour?

23 EXECUTIVE DIRECTOR LARSON: Whatever
24 your time constraints are, we'll fit in.

25 CHAIRMAN KEESE: Okay. I have a -- what

1 I have is a suggestion here. Commissioner Moore,
2 let's see if this would work.

3 We are going to be going into an
4 Executive Session, and that should take us about
5 15 minutes. We are going to have a -- a natural
6 gas briefing in a more informal setting at the
7 Commission, and that will take us 45 minutes to an
8 hour.

9 I would suggest that we reconvene -- we
10 complete all our discussion here and reconvene at
11 10 minutes to 12:00 down here for a vote.

12 COMMISSIONER MOORE: All right.

13 CHAIRMAN KEESE: And that -- we'll
14 finish the discussion here, but we'll -- we will
15 have our natural gas briefing, we will have our
16 Executive Session, and we will be here at 10
17 minutes to 12:00, take the vote, and that would
18 give any party who wanted to look at the language
19 a chance just to see if we have got it close to
20 right, and -- and for your Staff and our Staff to
21 review it and make sure that we have got it right.

22 COMMISSIONER MOORE: Good. Well, I'm
23 going to ask Mr. Glaviano to make sure that those
24 -- that the revised decision gets down here, and
25 is distributed while we're in Executive Session.

1 Mr. Chairman, I've withdrawn the motion.
2 But with your permission, I'd like to introduce
3 and be able to comment on my very able Hearing
4 Officer, Karl Engeman, if he could stand up and
5 just -- Karl stepped into -- into the fray totally
6 cold on this, and provided absolutely excellent
7 service. And I -- I want to commend him for the
8 time and energy that he put in to make this
9 decision actually happen.

10 CHAIRMAN KEESE: Thank you.

11 COMMISSIONER PERNELL: Mr. Chairman,
12 just so I can be clear, when we reconvene, we'll
13 only be voting on Items 1 and 2.

14 COMMISSIONER MOORE: Correct.

15 COMMISSIONER PERNELL: That's fine. I
16 do have a -- a very critical appointment to be at
17 at 12:30. But we should be done.

18 COMMISSIONER MOORE: We should be.

19 Do you still want to recess to Exec
20 Session?

21 CHAIRMAN KEESE: Let me -- let me first
22 ask if there's anyone in the audience who cares to
23 comment on our procedure, on our substance.

24 Okay. That -- Mr. Chamberlain, do we
25 have a -- do we have a -- anything other than an

1 Executive Session from you? Mr. Larson?

2 Okay. This is --

3 (Inaudible asides.)

4 CHAIRMAN KEESE: Okay. That was my next
5 statement.

6 We're going to consider this our Public
7 Comment period. Is there anyone who has a public
8 comment? Mr. Eric Christel. Eric Christen,
9 Coalition for Fair Employment? He was here. And
10 he wanted to comment.

11 Hearing none, what we're going to do,
12 then, is recess to the Third Floor Conference
13 Room. This is a -- this is a public meeting --

14 COMMISSIONER MOORE: Oh, no, we're going
15 to Exec Session first.

16 CHAIRMAN KEESE: No. We're going to the
17 third floor for a briefing from our Staff on -- in
18 the generic nature of natural gas, which is --
19 involves no issue determination whatsoever, but
20 just a briefing. Then we are going to go into
21 Executive Session.

22 We will return here at exactly 10
23 minutes to 12:00. I can tell you I have a
24 conference call at 12:00, so we will be out of
25 here by 12:00.

1 This meeting is recessed.

2 (Thereupon a recess was taken.)

3 CHAIRMAN KEESE: Mr. Christenman. I'm
4 sorry, is that Christen?

5 MR. CHRISTEN: Christen, that's correct.
6 It's the Swiss pronunciation, not the Swedish.

7 CHAIRMAN KEESE: Thank you.

8 MR. CHRISTEN: Thank you very much. I
9 won't take too much of your time. I apologize for
10 having stepped out of the room at the conclusion
11 of the last portion of the meeting.

12 My name is Eric Christen, I'm the
13 Executive Director of the Coalition for Fair
14 Employment in Construction. We are a statewide
15 organization of merit shops, meaning non-union
16 construction companies, who have become very
17 dismayed at what is occurring in regards to the
18 construction of power plants throughout the state,
19 that being -- and I realize, I want to preface
20 these comments by understanding that your position
21 as to whether labor on the project is union or
22 non-union, that has nothing to do with how you
23 proceed with a project.

24 Nevertheless, these projects are
25 proceeding under what are known as project labor

1 agreements. These are, for all intents and
2 purposes, and implicitly so, union only agreements
3 which preclude the majority of the construction
4 workforce, which nationwide is over 86 percent
5 non-union, from being able to work on these
6 projects.

7 Our coalition has been asked to seek
8 formal intervening status with the Commission. We
9 are seeking to do so. I wanted to introduce
10 ourselves, let you know that our legal counsel
11 will be moving forward with that. We believe that
12 California needs everyone's help, both within the
13 state and outside of the state, when it comes to
14 the construction industry, to get the plants built
15 that need to be built to power the state
16 sufficiently. And that means both union and non-
17 union workers alike.

18 And with over 86 percent of the industry
19 non-union throughout the country, we believe that
20 currently many are being excluded from working on
21 those projects, number one.

22 And, number two, solely through the
23 efforts of CURE these bid processes are being
24 delayed until the owners do, through what we call
25 green mail, submit to a PLA being built on their

1 project.

2 So I just wanted to introduce ourself.
3 We will be forwarding you information on our
4 coalition and, again, petitioning to become an
5 intervenor. And I thank you for your time.

6 CHAIRMAN KEESE: Thank you. And thank
7 you for timing yourself perfectly, because I see
8 Commissioner Pernell walking in here. And I know
9 that we have in front of us the Proposed Decision,
10 and I know we have the motions in front of us.

11 So let's -- counsel, are we in good
12 shape now? I'm looking at Alliance Century Energy
13 Facility.

14 COMMISSIONER ROSENFELD: There were
15 actually two requests. We are only --

16 CHAIRMAN KEESE: Right. I'm looking at
17 one here. I have in front of me, and I believe
18 the Applicant has seen the Alliance Colton. And
19 I'm going to ask the Applicant if this is an
20 appropriate order now.

21 MR. WEISS: Let me -- if I may, just
22 defer to Mr. Kennedy for two seconds, to make a
23 couple of clarifications.

24 CHAIRMAN KEESE: Sure.

25 MR. KENNEDY: The Staff has also had a

1 chance to review the revisions on the Century
2 proposal, and just noted a few relatively minor
3 points.

4 CHAIRMAN KEESE: Well, let's put them on
5 the record.

6 MR. KENNEDY: Yeah.

7 CHAIRMAN KEESE: We're dealing with the
8 -- we're dealing with the document that we all
9 have in front of us here.

10 MR. KENNEDY: That's right. On page 11
11 of the document, there is language inserted at the
12 bottom of that page that's -- actually, part of
13 the language that's inserted, starting with
14 construction will begin upon issuance, that
15 actually serves as a substitute for a sentence in
16 the third line of that same paragraph.

17 So the Staff would recommend that in the
18 final version of this, that the, under term of --
19 the third line under the term of certification,
20 the sentence starting there, construction will
21 begin, be deleted, in favor of the language that's
22 being inserted at the bottom of -- of that
23 paragraph.

24 COMMISSIONER PERNELL: Wait a minute,
25 I'm --

1 COMMISSIONER ROSENFELD: I couldn't
2 follow it. Sorry.

3 MR. KENNEDY: Okay.

4 COMMISSIONER PERNELL: Page 11, at the
5 bottom, under the --

6 CHAIRMAN KEESE: We have some new
7 language, is what you're saying.

8 COMMISSIONER PERNELL: -- where there's
9 underlined, that's where we're at?

10 MR. KENNEDY: That's right.

11 CHAIRMAN KEESE: And that replaces --

12 MR. KENNEDY: That -- the language there
13 that's inserted replaces the sentence on the third
14 line of that same paragraph that starts,
15 construction will begin upon issuance.

16 COMMISSIONER ROSENFELD: Okay.

17 MR. KENNEDY: Okay.

18 CHAIRMAN KEESE: So that whole sentence
19 goes out.

20 MR. KENNEDY: Staff would recommend
21 deleting that -- that sentence from the third line
22 of the paragraph, in favor of the language --

23 CHAIRMAN KEESE: Ending with air
24 district.

25 MR. KENNEDY: That's correct. There is

1 one clarification in terms of the inserted
2 language at -- on the very last line of the page,
3 where it says, a letter from the USEPA. The
4 proper terminology there actually should be an
5 administrative order on consent from the USEPA.

6 CHAIRMAN KEESE: An --

7 MR. KENNEDY: An administrative order on
8 consent.

9 COMMISSIONER ROSENFELD: Consent?

10 MR. KENNEDY: Yes, that's correct.

11 CHAIRMAN KEESE: Order on intent, I
12 think is --

13 MR. KENNEDY: On consent. Consent, c-o-
14 n-s-e-n-t.

15 CHAIRMAN KEESE: And that's subsuming
16 for --

17 COMMISSIONER ROSENFELD: A letter from.

18 MR. KENNEDY: A letter.

19 CHAIRMAN KEESE: A letter. Okay. Just
20 --

21 MR. KENNEDY: As opposed to a letter
22 from the USEPA.

23 CHAIRMAN KEESE: -- the two words, a
24 letter. All right.

25 MR. KENNEDY: On page 12, the point

1 three, if you see the paragraph, initial point
2 three was deleted. Most of the language at that
3 point actually is still there, and then the new
4 paragraph three that's insertion, all of that
5 actually should be a single paragraph. So that's
6 actually just a typographical. There is no change
7 in content or intent from what's shown here.

8 CHAIRMAN KEESE: Okay. So we should --
9 you're going to leave the first three in, and take
10 the second three out.

11 MR. KENNEDY: That's right. And the --
12 where it starts, CARB if temporary ERCs were used,
13 that's actually a continuation of the sentence.

14 CHAIRMAN KEESE: Continuation of the
15 first paragraph. Okay.

16 MR. KENNEDY: And the only other thing
17 that Staff noted is on point six, on the -- the
18 first point six on the following page, at the top
19 of page 13. Best Available Control Technology,
20 the best actually should be capitalized, that --
21 that change should not be made.

22 CHAIRMAN KEESE: Okay.

23 (Inaudible asides.)

24 MR. WEISS: With those changes the
25 document is fine with the Applicant.

1 COMMISSIONER PERNELL: Question, Mr.
2 Chairman.

3 CHAIRMAN KEESE: Commissioner Pernell.

4 COMMISSIONER PERNELL: We took out a
5 provision that lets me know when construction's
6 going to begin. So when is -- is there a
7 replacement for that, and when is construction
8 scheduled to begin?

9 MR. KENNEDY: Staff's understanding is
10 that the Applicant is hoping to begin construction
11 as soon as possible, as soon as the Commission
12 decision is finalized, that all of the pre-
13 constructions conditions are satisfied, and the
14 letter to that effect is received from the
15 construction project manager and the
16 administrative order on consent is received from
17 the USEPA.

18 My -- my expectation would be that they
19 would -- they are looking to start within the next
20 few days.

21 MR. WEISS: That's correct. And perhaps
22 as soon as tomorrow, if the last of these
23 logistics are resolved.

24 COMMISSIONER PERNELL: Okay. And this
25 is scheduled to be online by --

1 MR. KENNEDY: August 1st.

2 COMMISSIONER PERNELL: -- August 1st.

3 No further questions, Mr. Chairman.

4 CHAIRMAN KEESE: Thank you. So we have
5 this all appropriately amended and corrected all
6 Commissioner Moore's errors, and --

7 COMMISSIONER MOORE: Yeah, they -- they
8 were.

9 (Laughter.)

10 CHAIRMAN KEESE: -- and we're ready to
11 roll.

12 And we have the motion before us.

13 COMMISSIONER MOORE: We have a motion,
14 all right. Both -- both cases are -- we have
15 copies of Drews out, and the copies of amended --

16 CHAIRMAN KEESE: Commissioner Moore, we
17 have -- we have made clarifying amendments on page
18 11, and we have --

19 COMMISSIONER PERNELL: Of Century.

20 CHAIRMAN KEESE: Of Century. We have --
21 under time of certification, if you're reading, we
22 have stricken the third and most of the fourth
23 lines, because they're redundant and --

24 COMMISSIONER MOORE: Right.

25 CHAIRMAN KEESE: -- and were repeated

1 later. We have clarified in the last line on that
2 page, it says a letter from the USEPA. We now say
3 an administrative order on consent from the USEPA.
4 We have made a typographical change on page 12,
5 and we have, on page 13, under Item 6, capitalized
6 Best.

7 And with those changes, Staff and
8 Applicant indicate that this reflects the -- what
9 we're talking about.

10 COMMISSIONER MOORE: We have a motion on
11 the floor for Century?

12 CHAIRMAN KEESE: And -- and I'm willing
13 to -- I'm willing to coordinate the two, because
14 --

15 COMMISSIONER MOORE: Yeah. They --

16 CHAIRMAN KEESE: -- as I understand, the
17 --

18 COMMISSIONER MOORE: -- the motions were
19 --

20 CHAIRMAN KEESE: -- the changes that
21 we're making on Century -- actually, both of --

22 COMMISSIONER PERNELL: Perhaps we should
23 do them one at a time.

24 COMMISSIONER MOORE: They'll be
25 reflected in Drews, as well, and that is coming --

1 it's in the copy machine literally, right now.

2 CHAIRMAN KEESE: Okay. So we will --
3 what we have before us is Alliance Century, and we
4 are going to do the same amendments for Alliance
5 Drews.

6 COMMISSIONER MOORE: Correct.

7 CHAIRMAN KEESE: As amended, both of
8 those documents are before us.

9 Do we have any further comments?

10 MR. WEISS: One other comment, and it's
11 on page 11 of the Drews document.

12 CHAIRMAN KEESE: Of the Drews?

13 MR. WEISS: Sorry, of the Century --

14 COMMISSIONER MOORE: You don't have
15 Drews in front of you.

16 MR. WEISS: I'm sorry, it's the Century
17 document. You're right.

18 And the recommendation of the latest
19 version of the Century document, that paragraph
20 was stricken, on what I was just handed.

21 COMMISSIONER MOORE: Right.

22 CHAIRMAN KEESE: Well, I'm sorry.
23 Commissioner Moore, did you bring us additional
24 changes?

25 MR. KENNEDY: Oh, it's been moved to

1 page 14.

2 COMMISSIONER MOORE: It's just moved.

3 MR. WEISS: Okay.

4 COMMISSIONER MOORE: The language has
5 just been moved. Yes.

6 Yes, Mr. Chairman, you do have a
7 modified, and now Mr. Glaviano is handing out the
8 final modified Drews.

9 CHAIRMAN KEESE: And the changes in this
10 are what?

11 COMMISSIONER MOORE: Exactly the same --

12 CHAIRMAN KEESE: That we were talking
13 about.

14 COMMISSIONER MOORE: -- for Century and
15 for Drews.

16 CHAIRMAN KEESE: Okay. And -- and we
17 have done the edits, and we will do the same edits
18 to these documents.

19 COMMISSIONER MOORE: That's correct.

20 CHAIRMAN KEESE: All right. Everybody
21 ready for the vote?

22 COMMISSIONER ROSENFELD: Yes, I'm ready.

23 CHAIRMAN KEESE: All in favor.

24 COMMISSION STAFF: Commissioner Moore
25 withdrew his --

1 COMMISSIONER MOORE: Original motion.

2 You have a new motion on both --

3 COMMISSIONER PERNELL: No, no. We don't
4 have a new motion.

5 COMMISSIONER ROSENFELD: No, you
6 withdrew it, Michal.

7 COMMISSIONER MOORE: All right. I
8 apologize.

9 Let me, Mr. Chairman --

10 CHAIRMAN KEESE: Okay. We're going to
11 let Commissioner Moore make one more motion.

12 COMMISSIONER MOORE: All right. I'll --
13 I'll make a motion to approve the Alliance Drews
14 and the Alliance Century decisions that are before
15 you, Docket 01-EP-4 and 01-EP-5, as amended, the
16 strikeout versions that have been handed out to
17 Applicant and to the Commissioners.

18 CHAIRMAN KEESE: With the --

19 COMMISSIONER ROSENFELD: Second.

20 CHAIRMAN KEESE: -- three -- with the
21 editorial --

22 COMMISSIONER MOORE: With the editorial
23 changes in the --

24 CHAIRMAN KEESE: -- and other amendments
25 we have just discussed, which will be placed in

1 both documents.

2 COMMISSIONER MOORE: They will be -- you
3 have before you both amended versions that are the
4 strikeout versions.

5 CHAIRMAN KEESE: Thank you.

6 COMMISSIONER ROSENFELD: The move, and
7 second.

8 CHAIRMAN KEESE: And that was -- the
9 motion by Commissioner Moore and second by
10 Commissioner Rosenfeld.

11 All in favor.

12 (Ayes.)

13 CHAIRMAN KEESE: Opposed.

14 Mr. Kennedy.

15 MR. KENNEDY: I am in the process of
16 quickly looking through the Drews revised that is
17 in front of us, and the -- on page 13 of that
18 revised Proposed Decision, there remains a
19 condition on BACT standards that I believe in
20 Century had been stricken in favor of a similar
21 condition, AQ-3, in the Staff Assessment.

22 I suspect that that was intended to be
23 stricken from this, as well, in favor of Condition
24 AQ-3 in the Staff Assessment for the Drews.

25 COMMISSIONER MOORE: It was intended to

1 be Condition AQ-3.

2 MR. KENNEDY: So on page 13 of the
3 proposed Drews decision, the BACT standards
4 language --

5 COMMISSIONER MOORE: Well, actually, you
6 know, that's --

7 MR. KENNEDY: -- that paragraph --

8 COMMISSIONER MOORE: -- it's redundant,
9 in any case. So it doesn't have to be amended. I
10 mean, as long as it includes AQ-3, this doesn't
11 preclude Condition AQ-3 from happening.

12 MR. KENNEDY: The language is different
13 in terms of the -- AQ-3 was written to accommodate
14 the initial operation this summer at --

15 COMMISSIONER MOORE: At 25 ppm.

16 MR. KENNEDY: -- at 25 ppm. This
17 language was not --

18 COMMISSIONER MOORE: All right. Well,
19 then -- then that's my error. I -- and I
20 indicate, and the motion should have indicated
21 that these should be consistent, and that --

22 CHAIRMAN KEESE: We'll withdraw --

23 COMMISSIONER MOORE: -- that condition
24 should --

25 CHAIRMAN KEESE: -- we'll withdraw our

1 vote there.

2 COMMISSIONER MOORE: -- reflect AQ-3.

3 CHAIRMAN KEESE: We'll withdraw the
4 previous vote.

5 COMMISSIONER MOORE: Well, I amend the
6 motion --

7 CHAIRMAN KEESE: And -- and we're going
8 to let Commissioner Moore state it again.

9 COMMISSIONER MOORE: All right. I move
10 that both items, Docket EP-4 and Docket EP-5, 01-
11 EP-4, 01-EP-5, be adopted, and the 01-EP-5
12 Alliance Draws condition on BACT standards reflect
13 the AQ-3 Condition that's contained in the Staff
14 recommendation, as amended.

15 CHAIRMAN KEESE: And that does include
16 the --

17 COMMISSIONER MOORE: With all the other
18 changes that were -- that were discussed --

19 CHAIRMAN KEESE: -- the changes that
20 were discussed here in public.

21 COMMISSIONER MOORE: -- and are included
22 in the strikeout version.

23 CHAIRMAN KEESE: Thank you.

24 We have a motion and a second.

25 All in favor.

1 (Ayes.)
2 CHAIRMAN KEESE: Opposed.
3 Adopted, four to nothing.
4 We're done.
5 Thank you. This meeting is adjourned.
6 (Thereupon the Business Meeting
7 was concluded at 12:06 p.m.)
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CERTIFICATE OF REPORTER

I, VALORIE PHILLIPS, an Electronic Reporter, do hereby certify that I am a disinterested person herein; that I recorded the foregoing California Energy Commission Business Meeting; that it was thereafter transcribed into typewriting.

I further certify that I am not of counsel or attorney for any of the parties to said Meeting, nor in any way interested in the outcome of said Meeting.

IN WITNESS WHEREOF, I have hereunto set my hand this 7th day of May, 2001.

VALORIE PHILLIPS

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